

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

KONINKLIJKE PHILIPS ELECTRONICS
N.V. and U.S. PHILIPS CORPORATION,

Plaintiffs,

v.

THE ADS GROUP fka ADVANCED
DUPLICATION SERVICES LLC; AMERICAN
MEDIA INTERNATIONAL, LTD.;
CARBONITE INC.; THE COMVEST GROUP;
CONCORD RECORDS, INC.; CONCORD
MUSIC GROUP, INC; EVA-TONE, INC.;
HAL LEONARD CORP.; HUDSON VALLEY
CAPITAL PARTNERS, INC.; INOVERIS LLC;
INTUIT INC.; METATEC INTERNATIONAL,
INC.; MTI ACQUISITION LLC aka MTI
ACQUISITION CORP.; MUSIC CITY OPTICAL
MEDIA, INC.; ZOMAX INCORPORATED;
MICHAEL F. HARDWICK, an individual; ARUN
KHURANA, an individual; JEAN A. LAGOTTE
JR., an individual; JOHN EDGAR MOLL, an
individual, JOHN STEVEN MOLL, an individual;
DAVID A. SILVON, an individual; and John Does
No. 1 through 100

Defendants and
Counterclaim Plaintiffs.

Civil Action No.08-cv-4068 (CS)

ECF Case

DECLARATION OF GREGORY J. CARBO

I, Gregory J. Carbo, declare as follows:

1. I am an attorney in the law firm of Cooper & Dunham LLP, attorneys for the defendants in this action, The ADS Group, American Media International, Ltd., Metatec International, Inc., MTI Acquisition, LLC, Inoveris LLC, and Zomax Incorporated, all of whom

are collectively referred to as the “Defendants.” I am a member in good standing of the bar of the States of New York and of this Court. I make this declaration in support of Defendants’ Memorandum In Opposition To Philips’ Motion To Dismiss Patent Misuse And Tortious Interference Counterclaims.

2. Attached as Exhibit 1 is a true and correct copy of an email from Mr. Lenihan to Ms. Heefer dated February 13, 2008.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct.

Dated: August 14, 2008

s/ Gregory J. Carbo
Gregory J. Carbo

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of August, 2008, a copy of the foregoing **DECLARATION OF GREGORY J. CARBO** was filed electronically with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Christopher J. Hout
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and was served by email and by First Class Mail, postage prepaid, on the following attorneys for plaintiffs, Koninklijke Philips Electronics N.V. and U.S. Philips Corporation, addressed as follows:

Vince P. Kovalick
John F. Hornick
Samuel C. Bass
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s/ Gregory J. Carbo
Gregory J. Carbo

From: William Lenihan [mailto:william.lenihan@philips.com]
Sent: Wednesday, February 13, 2008 10:37 AM
To: Heefner, Ann
Subject: Re: H&R Block

Dear Ms. Heefner-

All CD discs manufactured by Zomax go unreported / unpaid and therefore infringe the essential Philips CD Disc patent. Last month, Philips filled litigation against Zomax for patent infringement / breach of contract.

I will forward a copy of that court filing / litigation for your reference.

Any CD Disc produced by Sony DADC is considered Licensed and in good standing.

To that end, we can offer H&R Block assistance in directing you to other Licensed replicators in good standing.

Philips will protect it's patent rights to the fullest the law and may ultimately look to H&R Block to resolve the unpaid royalties for discs manufactured on your behalf by Zomax.

To our knowledge, Zomax ceased to report / pay royalties on CD Disc at or around the middle of 2006.

Please feel free to call to further discuss.

regards,

William J. Lenihan
Director
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